

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

GABRIEL ROBERT GONZALEZ,	:	
Petitioner,	:	
	:	
v.	:	CIVIL ACTION
	:	No. 2:09-cv-02029-AB
	:	
RANDALL BRITTON, et al.,	:	
Respondents.	:	

ORDER

AND NOW, this __16th__ day of October, 2018, upon careful and independent consideration of the petition for a writ of habeas corpus, counsel’s supporting memorandum, the response, Petitioner’s reply, Respondents’ surreply, Petitioner’s objections, and available state court records, and after review of the Report and Recommendation of United States Magistrate Judge David R. Strawbridge (ECF No. 81), it is **ORDERED** that:

1. The Report and Recommendation is **APPROVED** and **ADOPTED**;
2. The petition for a writ of habeas corpus is **DENIED**; and
3. Petitioner’s request for a certificate of appealability is **GRANTED**¹ as to Petitioner’s

¹ Petitioner objects to the Report and Recommendation’s resolution of Petitioner’s claim that his trial counsel was ineffective for failing to investigate, develop, and present character evidence. In the Report and Recommendation, Judge Strawbridge found that—even reviewing *de novo*—this claim fails because Judge Strawbridge could not “say that there is a reasonable probability of a different, more favorable outcome than the second-degree murder verdict” even if trial counsel had investigated and presented the available character evidence. *See* Rep. and Rec. at 26. Because of this finding, Judge Strawbridge did not need to reach every one of Petitioner’s proposed grounds for relief on this claim, including Petitioner’s argument that his claim is being presented for the first time in this proceeding and should therefore be reviewed *de novo* pursuant to *Martinez v. Ryan*, 566 U.S. 1 (2012) and *Trevino v. Thaler*, 569 U.S. 413 (2013). I agree with and adopt Judge Strawbridge’s reasoning, but I grant Petitioner’s request for a certificate of appealability to renew his objections on appeal.

claim that trial counsel was ineffective for failing to investigate, develop, and present character evidence.

s/Anita B. Brody

ANITA B. BRODY, J.

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